In the High Court of Judicature at Madras

Dated:27.09.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice S. TAMILVANAN

Habeas Corpus Petition No.605 of 2006

Santha Munikumar .. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by the Secretary to Government
   Prohibition and Excise Department
   Fort St. George
   Chennai 60 009.

2. The Commissioner of Police
   Greater Chennai
   Chennai 600 008.

3. The Superintendent of Police,
   Central Prison, Chennai 600 003. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus call for the entire records of the 2nd respondent in Memo No.127/BDFGISV/06 dt. 15.4.2006 and quash the same and thereby directing the respondents to produce the petitioner's husband before this Court and set him at liberty forthwith.

For petitioner : Mr. A.D. Jagadish Chandira
For respondents : Mr. M. Babu Muthu Meeran
Addl. Public Prosecutor

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ORDER

(Order of the Court was made by P. SATHASIVAM,J.)

In this petition, the petitioner by name Santha Munikumar, challenges the detention order dated 15.04.2006 passed by the second respondent herein, detaining her husband Munikumar as Slum Grabber under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas,

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Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. The grounds of detention show that the detenu created forged Power of Attorney and registered the same by producing fake persons with criminal intention to cheat and collect huge money from businessmen and further entered into agreements in respect of such lands and cheated the innocent public and thereby acted in a manner prejudicial to the maintenance of public order. The detaining authority, after finding that there are enough material evidence to show that the act of the detenu created alarm and feeling of insecurity in the minds of general public and in order to prevent him from indulging in such further activities in future, detained him under Tamil Nadu Act 14 of 1982 as a Slum Grabber.

4. The learned counsel for the petitioner at the foremost submitted that the pre-detention representations of the detenu dated 31.03.2006 and 08.04.2006 were not considered by the detaining authority; hence, the impugned detention order is liable to be quashed. The learned Additional public Prosecutor by placing the entire records before us submitted that the representations were duly considered and disposed of. According to him, there is no pre-detention representation as claimed by the petitioner. Admittedly, the petitioner has not alleged about the submission of pre-detention representations on 31.03.2006 and 08.04.2006 in the affidavit filed in support of the above petition. Only during the course of arguments, the learned counsel for the petitioner has made such claim without specific assertion. In the counter affidavit filed by the second respondent / Commissioner of Police, Greater Chennai, it is stated that the representation of the detenu dated 11.05.2006 was received by the Government on 15.05.2006 and after getting remarks, the same was disposed of by the Government on 26.05.2006 and communicated to the detenu on 29.05.2006. It is also brought to our notice that apart from the said representation, a telegram was sent by the detenu on 04.05.2006 and based on the telegram the Government, after obtaining remarks, considered and disposed of the said representation on 24.05.2006. On going through various dates furnished by the learned Additional Public Prosecutor, we are satisfied that the representation dated 11.05.2006 and telegram dated 04.05.2006 were duly considered and disposed of by the Government without any undue delay. In so far as the claim regarding pre-detention representations is concerned, in the absence of any adequate proof and in view of the information by the Public Prosecutor that no such representations are available, we reject the said contention.

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5. The learned counsel for the petitioner further submitted that since the detenu is hailing from Andhra Pradesh, he knows only Telugu and inasmuch as all the documents were supplied only in English and Tamil, he was prevented from making an effective representation. In the light of the information furnished by the respondents, we are unable to accept the said contention. Even according to the detenu, he studied upto S.S.L.C. in Andhra Pradesh and came to Chennai 20 years back for doing business in Real Estate. He married one Santha hailing from Mylapore, Chennai and had three sons, all studying at Chennai. Even in his confession statement, he has admitted the above facts and also fairly stated that for the past 15 years he was doing the business of real estate at Chennai. In such circumstances, it cannot be claimed that he is not conversant with Tamil language. Further, when he was arrested and produced before the Magistrate for remand, he did not make any complaint stating that he knows only Telugu. On the other hand, it is the specific claim of the respondents that all the documents were supplied to the detenu in Tamil, after explaining the same to him. The documents also contain endorsement and signature of the detenu, which would show that he understood the contents of the documents. Accordingly, we reject the above contention also. In view of the fact that the detenu is conversant with Tamil language as evident from his own confession statement and also of the fact that he is doing business for more than 15 years at Chennai, we are of the view that it is unnecessary to refer various decisions relied on by the learned counsel for the petitioner on this point.

6. The learned counsel for the petitioner further submitted that his arrest was not intimated to any one as per the guidelines issued by the Supreme Court in D.K. Basu vs. State of West Bengal reported in 1997 S.C.C. (Cri.) 92. The learned Additional Public Prosecutor has brought to our notice that after arrest as per the statement of the accused / detenu, the same was intimated to one Dhakshinamoorthy, aged about 54 years, S/o. Gopalakrishnan, residing at No.2/3 CPW Quarters, Besant Nagar, Chennai 90, who is his friend. The arrest memo available at page 9 of the paper book supplied to the detenu supports the above version and the said Dhakshinamoorthy has also signed the same. Accordingly, we reject the said contention.

7. Finally, the learned counsel for the petitioner submitted that the detention order was not intimated to any one. The said contention is also liable to be rejected since the detention order and grounds of detention as well as documents appended to all were supplied to the detenu, and the signature of the detenu found therein amply supports the same. Apart from this, the file produced by the learned Additional Public Prosecutor show that the same was also served on his sister. Accordingly, we reject the said contention.

8. Except the above said contentions, no other ground has

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been raised.

In the light of what is stated above, this habeas corpus petitions is dismissed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The Secretary to Government
   State of Tamil Nadu
   Public (SC) Department
   Fort St. George
   Chennai 60 009.

2. The Commissioner of Police
   Greater Chennai
   Chennai 600 008.

3. The Superintendent,
   Central Prison
   Chennai.

+1cc to M/s. A.D.Jagadish Chandra, Advocate Sr 45544

KSJ (CO)
km/12.10.

H.C.P.No.605 of 2006

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